

APPROVED MINUTES
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council (Including Joint Meeting with Redevelopment Agency)
Date of Meeting:	February 18, 2003
Time of Meeting:	6:30 p.m. (Closed Session) 7:30 p.m. (Regular Session)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

ROLL CALL

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 6:37 p.m. Present were Mayor Esteves, Vice Mayor Dixon, and Councilmembers Gomez and Polanski. Councilmember Livengood arrived at 7:20 p.m.

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following two items listed on the agenda:

1. **CONFERENCE WITH LABOR NEGOTIATOR**
(Pursuant to Government Code Section 54957.6)
Agency Negotiator: Art Hartinger
Employee Organizations: MEA
2. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
(Pursuant to Government Code Section 54956.8)
Property: APN Nos. 86-05-021, 86-05-009, and 86-11-013
Negotiating Party: Tom Wilson
Under Negotiation: Terms & Conditions for Acquisition/Lease of Property

Mayor Esteves adjourned the meeting to closed session at 6:38 p.m.

The City Council meeting reconvened at 7:35 p.m. with Mayor Esteves presiding and Vice Mayor Dixon and Councilmembers Gomez, Livengood, and Polanski present.

**CLOSED SESSION
ANNOUNCEMENTS**

There were no closed session announcements.

PLEDGE

Mayor Esteves led the Council and audience in the Pledge of Allegiance.

MINUTES

MOTION to approve the City Council minutes of February 4, 2003, including joint meeting with the Redevelopment Agency, as submitted.

M/S: Dixon, Livengood.

Ayes: 5

SCHEDULE

City Manager Wilson reported the February 26, 2003, meeting of the BART Policy Advisory Board had been cancelled; the next meeting would be held on March 26, 2003, at 3:00 p.m. in the Milpitas Council Chambers.

Councilmember Gomez noted that Councilmember Livengood was listed as the representative to the Coyote Control and WaterShed Advisory Committee; however, he was the representative. Mayor Esteves said he thought Councilmember Livengood was the representative. Councilmember Livengood said it was his understanding that the Mayor had appointed Councilmember Gomez. Mayor Esteves said he learned later on that this might be difficult for Councilmember Livengood. Councilmember Livengood said 9:30 a.m. meetings were difficult for him so it would be helpful if Councilmember Gomez attended. Mayor Esteves clarified that Councilmember Gomez would have that committee responsibility.

Vice Mayor Dixon reported a Congestion Management meeting was scheduled for February 20, 2003, at San Jose City Hall at 10:30; and at 2:00 p.m. a VTA Financial Ad Hoc meeting

was scheduled; on February 24, 2003, the Joint Powers Authority for the Santa Clara Library System meeting would be held in Campbell at 1:30 p.m. Vice Mayor Dixon further stated until further notice, she had standing meetings for the Financial Ad Hoc Committee for the VTA every Wednesday at 9:00; and there was a VTA workshop scheduled for February 28, 2003 at 8:30 a.m.

Councilmember Polanski noted that the Senior Advisory Committee moved its March meeting from March 18th to March 11th at 1:30 p.m. at a location to be determined.

MOTION to approve the Schedule of Meetings as amended.

M/S: Livengood, Dixon.

Ayes: 5

Vice Mayor Dixon noted there was a misprint on the City-issued calendar for April 27th; the 27th was listed twice (one should be the 21st).

MOTION to approve the Schedule of Meetings as amended.

M/S: Livengood, Dixon.

Ayes: 5

PRESENTATIONS

Mayor Esteves presented Parveen Gupta with a Certificate of Appointment recognizing his recent appointment to the Alternate No. 1 position on the Telecommunications Commission.

Mayor Esteves read a proclamation proclaiming March 2003, “Colorectal Cancer Awareness Month” and presented it to Charlotte Josephs, a volunteer with the American Cancer Society. Ms. Josephs said she wanted to reaffirm what the Mayor read and emphasized it was really important to pay attention to your health and early screening was absolutely key to preventing Cancer.

Mayor Esteves presented Commendations for contributions to the community to: Chen Lin; Jan Wen; Brenda Wong (unable to be present); Margaret Mai Yee Lai (unable to be present); Le Mong Bao; and Maria Nguyen.

Maria Nguyen presented an original artwork depicting Vietnamese ladies to the City.

Mayor Esteves invited the Tzi Chi Foundation volunteers to come forward and presented Commendations for contributions to the community to Leon Liu; Jason Lin; A.T. Wee; Mei Li Wang; Huayen Wee; Ching Chih Lin; and Jin Yu Chang. A representative of the group explained the Tzi Chi Foundation was an international charity organization promoting community service, described some of their projects, and thanked the Mayor and Council for the recognition.

CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

Art Swanson, Milpitas, said it was good to see old friends, he appreciated the Hindus’ contributions to the world, the important thing was that the public forum puts us on the same level as the Council who sit on the dais with solemn faces, and he would like to see some friendliness from now on.

Rob Means, Milpitas, commented that later on the Council will be addressing the water supply and he was glad to see the City will be working with some public entities to do something because there was an alternative out there that doesn’t work so well, expressed concern for the privatization of the water supply and the problems experienced by agencies that had gone with

privatization, and expressed concern that the Water Investment Act of 2002 will not finance local water projects unless the local government has considered privatization.

Ed Connor, Milpitas, said he attended the Senior Advisory Commission meeting where he received a copy of a letter from Supervisor McHugh addressing several issues; commented that Denny Weisgerber, a previous Mayor of Milpitas, was taken totally by surprise because for 40 years we have been trying to purchase the land to build a senior center; Supervisor McHugh's letter spelled out four specific things; he came before the Council about this six months ago; paragraph four of the letter specifically spells out that the County Executive's Office is presently engaged with the City of Milpitas in planning and implementing two projects – Elmwood surplus land development and the Milpitas Valley Health Clinic and either or both projects may directly or indirectly include a senior housing component; at this time, it was suggested to have that property as a senior center and at the time he spoke with Supervisor at the Senior Center, he talked about the fact that the County would like to put a health facility in the City of Milpitas; and this would be an ideal location for a senior center and health clinic at the same location.

Mayor Esteves informed Mr. Connor two minutes were up and if he wanted, he could give the Clerk a copy of his comments for distribution to the Council.

ANNOUNCEMENTS

Vice Mayor Dixon announced that last week she, along with School Board President Marsha Grilli and Evergreen Valley College Trustee Ron Lind, had the pleasure of hosting U.S. Congressman Mike Honda in the City Hall Rotunda and expressed appreciation to the Mayor and Councilmember Polanski for attending and to the City Manager and Cindy Maxwell for their assistance. Vice Mayor Dixon also thanked the four restaurants that donated food and drinks for the reception.

Vice Mayor Dixon presented an update on the VTA crisis reporting that this month the Board reacted to an emergency request from the General Manager and approved an immediate 9 percent cut with more cuts coming. Vice Mayor Dixon said she also attends the Financial Ad Hoc Committee meetings every week and at another committee meeting, the Policy Advisory Committee, she received information on the latest Governor's budget proposal for transportation projects and distributed copies to the Council. Vice Mayor Dixon noted that the projects highlighted in red on the list were at risk and in Milpitas this included the 237/880 Interchange replacement planting, the 680/Sonol Grade southbound sound walls in Fremont and Milpitas, and the 680 northbound HOV lane over Sunol Grade, Milpitas to Route 84.

Councilmember Polanski reported, as Mr. Connor mentioned, a letter from Supervisor McHugh and was passed out at the Senior Advisory Commission meeting and the Commission asked her to give a copy to each Councilmember. Councilmember Polanski further reported that Jim Burns has been the Chair of the Commission, the new Chair is Denny Weisgerber, and Steve Lu the new Vice Chair. Councilmember Polanski also reported that she and the Mayor had the opportunity to attend the Chinese New Year Celebration at the Senior Center that Mr. Lu put together with the Chinese Evergreen Club.

AGENDA

MOTION to approve the agenda as submitted.

M/S: Livengood, Dixon.

Ayes: 5

CONSENT CALENDAR

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar. There were no requests.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as submitted in accordance with the staff recommendations.

M/S: Gomez, Dixon.

Ayes: 5

***2.**

Approved the Mayor's appointment of Rene Briones to the Alternate No. 2 position on the

BRAC Appointment

Bicycle Transportation Advisory Committee with a term expiring August 2003.

***5.
Youth Sports Grants**

Approved the following grants as recommended by the Parks, Recreation and Cultural Resources Commission leaving a balance of \$7,170.00 for the remainder of the fiscal year:

- Steven Ragsdale requesting \$245.00 to offset cost of competing in the National BMX Biking competition in Reno, Nevada on January 10 – 12, 2003.
- Randy Zappia requesting \$280.00 to offset cost of competing in the National BMX Biking competition in Reno, Nevada on January 10 – 12, 2003.

***6.
Level 3 Communications, LLC
(Project No. 3115)**

Authorized the City Manager to execute Encroachment Permit Agreement with Level 3 Communications, LLC (Project No. 3115), subject to the approval by the City Attorney as to form.

***8.
Calaveras Road Slope Repair
(Project No. 4029)**

Adopted Resolution No. 7280 granting initial acceptance subject to a one year warranty period and reducing the bond to \$54,859.17 for Calaveras Road Slope Repair (Project No. 4029).

***9.
Great Mall Parkway
(Project No. 4133)**

Adopted Resolution No. 7281 granting final acceptance and releasing the bond for Great Mall Parkway landscaping between I-880 and Abel Street (Project No. 4133).

***10.
Sinclair Horizons Tract 9018
(Project No. 3033)**

Adopted Resolution No. 7282 granting final acceptance and releasing the bond for Sinclair Horizons Tract No. 9018 (Project No. 3033)

***11.
Mirabella Estates Tract 9061
(Project No. 3081)**

Adopted Resolution No. 7283 granting final acceptance and releasing the bond for Mirabella Estates Tract 9061 (Project No. 3081).

***12.
Meyers Nave Agreement**

Approved the agreement between the City of Milpitas and Meyers Nave for labor relations/negotiations services related to the MOU between the City of Milpitas and MEA.

***13.
Robert A. Bothman, Inc.
(Project No. 4184)**

Approved amendment to the contract with Robert A. Bothman, Inc., subject to approval as to form by the City Attorney, and authorized the expenditure in an amount not to exceed \$46,514.50 to be funded by Project No. 4184.

***14.
Silicon Valley Intelligent
Transportation
(Project No. 4219)**

Authorized City Engineer to execute a change order in the amount not to exceed \$76,000.00 to VCI Telcom Inc.

***15.
McCandless Drive
(Project No. 4182)**

1. Approved plans and specifications for the McCandless Drive Box Culvert Railing Repair project (Project No. 4182).
2. Authorized advertising for bid proposals.

***16.
Well Upgrade Project
(Project No. 7076)**

1. Approved plan and specifications.
2. Authorized advertising for bid proposals for construction.

***17.
Midtown Area
Proposed Developments**

Authorized the City Manager to execute a contract with HOK Planning Group to provide supplemental design review services for proposed development within the Midtown Area and other developments in the City on an as-needed basis when authorized by the approved workplan submitted in Task One, Exhibit A of the attached draft contract.

***18.
Flat Panel Monitors
(Project No. 8142)**

Authorized the purchase of 14 flat panel monitors from Surah, Inc. in an amount not to exceed \$9,290.02 for Surah, Inc.

***19.
Network Security Upgrades
(Project No. 8039)**

Authorized the City Manager to execute a contract with Frontline Network Consulting in an amount not to exceed \$35,064 for network security hardware and software implementation, subject to approval as to form by the City Attorney.

***20.
Miscellaneous Vendors**

Approved the following purchase requests:

1. \$7,800.00 to MRM Electrical Communications, Inc. for the emergency repair of underground conduit and repair of communication lines on Milpitas Blvd at Yosemite Ave for the Information Services Department. (Funds are available from the Telecommunications Infrastructure project [Project No. 8093] budget for this repair.)

2. \$8,000.00 to TecoGen for annual preventive maintenance service, conducted quarterly, of the co-generation system at the Sports Center for the Recreation Services Division. (Funds are available from the Recreation Services Division operating budget for this service.)

***21.
Payroll Register**

Approved the Payroll Register for the period ending January 25, 2003, in the amount of \$1,930,747.33 is submitted for approval.

PUBLIC HEARINGS (NONE)

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

**RA1.
CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:08 p.m.

**RA2.
ROLL CALL**

Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Gomez, Livengood, and Polanski.

**RA3.
MINUTES**

MOTION to approve the Redevelopment Agency minutes of February 4, 2003, including joint meeting with the City Council, as submitted.

M/S: Dixon, Livengood.

Ayes: 5

**RA4.
AGENDA**

MOTION to approve the agenda and consent calendar as submitted.

M/S: Dixon, Livengood.

Ayes: 5

**RA5.
CIVIC CENTER UPDATE**

Redevelopment Projects Manager Greg Armendariz reported the progress report would be brief as there were no action items before the Council. Mr. Armendariz presented an update on the City Hall Project budget expenses reporting that that total project contingency remaining was \$345,859. Mr. Armendariz further reported while there were no change orders presented, he did want to provide the Council with a look ahead reporting that electrical revisions in the amount of \$4,000 were anticipated, HVAC revisions in the garage of approximately \$35,000 were anticipated, and furniture revisions for additional file storage and ergonomic workstation upgrades were being developed and would be before the Council at the next meeting or two. Mr. Armendariz also reported on additional closeout work underway that included assembly and preparation of the operations and maintenance manuals for all elements of the building, assembly and organization of warranty documentation, and assembly and checking of as-built plans.

Councilmember Gomez inquired if the \$345,859 contingency amount included the \$45,000 for the third floor improvements. Mr. Armendariz responded it had not been separated but could be separated out in the holds and unboughts.

MOTION to note receipt and file.

M/S: Polanski, Dixon.

Ayes: 5

**RA6.
BUDGET APPROPRIATIONS
TRANSFERS FY 02-03
STATE BUDGET IMPACTS**

City Manager Tom Wilson reported this item would be presented in two parts; Finance Director Emma Karlen would present the report on the budget appropriations and transfers for the Fiscal Year 2002-03 mid-year budget modifications and then the City Manager would present some comments on the budget and potential State budget impacts for next year.

Finance Director Emma Karlen reported the item before the Council/Agency was a request for mid-year budget adjustments, explained there were three different types, there were sufficient funds available to fund the requests, the total fiscal impact was \$398,874, and the amount affecting the General Fund was a positive return to the fund balance of \$517,481.

Vice Mayor Dixon inquired, with respect to the \$108,000 appropriation for the COPS in School Grant, if staff had any idea whether this money would be available for the net cycle. Ms. Karlen responded she didn't believe a grant application had been submitted for next year and if the program was continued, it would be funded by the General Fund or reimbursement from the School District. Vice Mayor Dixon commented that in 2003-04, the partnership with the School District may be disrupted for a year or so.

Councilmember Livengood commented the only thing for him that was a red flag was the \$200,000 for litigation and it was important to note all that money was related to City-built projects (the Sports Center, Fire Station 1, and City Hall). Councilmember Livengood said the City needed to get in a position where it is building public projects without lawsuits and before construction begins on a new senior center and library, a close look be taken as to how the City got into these situations, a close look be taken to try to make sure that as the two next very important projects are approached, a way is figured out how best to tighten up on legal documents that go to and from contractors, and to do the best we can to make sure we don't have these same problems with the next two projects as we have had with the last three.

Vice Mayor Dixon said she agreed with Councilmember Livengood because she knew information on all three public buildings, in particular the Main Fire Station where many things went wrong. Vice Mayor Dixon asked the City Attorney to get back to her to schedule an Attorney Subcommittee meeting. Mayor Esteves said the City Attorney Subcommittee was comprised of Vice Mayor Dixon and Councilmember Polanski and, hopefully, with the next CIP. lessons would have been learned from past projects and litigation will be minimized.

MOTION to approve the mid-year budget transfers totaling \$200,000 and appropriations totaling \$598,764.

M/S: Dixon, Livengood.

Ayes: 5

City Manager Wilson reported at its last meeting, staff provided some budget projections for the closeout of Fiscal Year 2003-04, potentially \$2 million more might be needed to balance the budget this year; staff across the organization was working to identify as many ways as possible to capture those dollars prior to the end of this year, and staff was confident that it will be able to find ways of saving another \$2 million minimally this year which will keep the City minimally at the level of use of the General Unallocated Reserve Fund as was projected in the budget. Mr. Wilson further reported staff was looking forward to delivering some positive news regarding additional savings this year at the next Council meeting and would bring the start of a list of ideas that would require very direct Council policy decisions as they include programs identified as some potential areas for savings and involve policy decisions. Mr. Wilson said this effort, if successful, will provide a very strong entry into Fiscal Year 2003-04 and as previously indicated to the Council, if the revenue picture did not improve and savings in programming and expenditures weren't found, the City might be looking at needing approximately \$8 million in the next fiscal year.

City Manager Wilson reported he had an opportunity to have some dialogue on the State budget process at the League of California Cities City Manager's Department meeting last week in Monterey; the Governor's Budget Director, Mr. Steve Peace was in attendance for a

session, and he did not bring any good news. Mr. Wilson shared information that was presented on the Governor's \$10 billion budget savings proposal and a one cent sales tax increase and reported that it appeared the vehicle license fees were still at risk, and for Milpitas next year that amounted to perhaps \$3.6 million. Mr. Wilson said the consensus from the meeting was that the outlook for FY 2003-04 was not real positive and that long term impacts will not be worked out for a few more budget years beyond the next one; everyone was left with a sense that we need to be very cautious about how we do spend our money. Mr. Wilson said staff would be presenting a very conservative budget for 2003-04 and putting everything on the table for the Council to examine. Mr. Wilson noted that compared to neighboring communities and communities through the State, Milpitas is a lot better off than most all and not in worse shape than any.

Mayor Esteves thanked the City Manager for the information and said he heard the City Manager say that most likely the deficit would be \$8 million and staff was proposing only program cuts, service cuts, and using reserves. Mr. Wilson responded yes, reserves in some dimension would likely be used next year. Mayor Esteves commented that he would tap the reserves last and the way he looked at the budget, at least 60% or two-thirds was payroll so that should be a big area staff should be looking at. Mr. Wilson responded that is the City's cost center and staff had taken a very aggressive position in freezing vacancies; most employees are covered by contracts and any considerations that would reduce the contract commitments would have to be negotiated and that was an option the Council would have before it. Mayor Esteves commented that at this time there were no easy efforts and he wanted to hear some options and alternatives.

Councilmember Livengood said he understood a contingent of people was going to discuss budget matters with Senator Figueroa and Assemblymember Dutra tomorrow; he thought that was a very good thing to do, however, there are 79 other members of the Assembly and 39 other Senators so even if these two were swayed, they have to deal with the others and the Governor. Councilmember Livengood commented that there are two areas that affect the budget – expenditures and revenues – and a lot has been dealt with respect to revenues but he felt it was important to start reducing the amount of money that is being spent in the City budget. Councilmember Livengood noted the largest portion of the budget was payroll and while no one wanted to use the word "layoff", there may have to be layoffs when talking about an \$8 million potential deficit. Councilmember Livengood said when you reduce your work force, you not only lose the salary requirements but also the benefits, which are a very high portion of the salary; if you ask employees to take a cut in pay, the benefits will still all be in tact; so a reduction in force for him was going to be a very important part of this process because when you talk about revenues, we can go to Sacramento, which needs to be done, but expenditures were under the control of the Council. Councilmember Livengood commented that whenever he picks up a newspaper, he reads that almost every city in this area is talking about reducing its work force because that's where the money is. Councilmember Livengood further commented that he was not going to be supportive of moving money from one account to another; he wasn't going to be supportive of taking a lot of money out of reserves; he would be looking at cutting expenditures and would be looking for recommendations on how to accomplish that with having the least amount of affect on delivery of City services.

City Manager Wilson said staff's approach was to put all those things on the table and closing out this year with a savings program that will deliver substantial amounts of savings; the 2003-04 budget will be brought forth for Council's consideration on how those things are going to be accomplished in the next year budget; and nobody was seeing any light at the end for at least two years (2003-04 and 2004-05).

Vice Mayor Dixon said she agreed with some of what Councilmember Livengood said and that was primarily why she was hesitant and not supportive less than a year ago of a 3% across the board increase to the Fire Department only a year into their contract because the recession just didn't happen this year or last year. Vice Mayor Dixon further stated that sitting on various committees and commissions dealing with transportation within the Valley and the region, the one thing that struck her was that not one of these agencies instituted a hiring

freeze almost two years ago as Milpitas did and she thought the credit went to the Council and to the City Manager for having the foresight. Vice Mayor Dixon asked when the City Manager was talking about the various cuts he was looking at for the next fiscal year, was he taking into account maintaining a particular percentage of General Fund reserves. City Manager Wilson responded absolutely, working with the \$8 million number as a deficit; the General Fund operating reserves are above 15% and what was being looked at was how can that reserve fund maintain its credibility for at least two years. Mr. Wilson pointed out that in addition to the General Fund reserve, in 2000 the Council increased the base reserve from 10% of budget to 15%; in 2001-02 the Council created a PERS reserve fund with \$7 million and at the end of this year it will still have \$5.5 million. Vice Mayor Dixon said she would like to come back for consideration doing away with the Council's dinner for Closed Sessions and look what is being spent collectively for food.

Mayor Esteves said he would still push for the library and senior center projects. Mr. Wilson said those two projects remained on track.

Councilmember Gomez said one thing that would help him in understanding the \$8 million deficit would be a spreadsheet showing exactly where the money went. City Manager Wilson responded a good percentage of it was in salaries but staff would provide something.

Councilmember Polanski thanked the staff for all their efforts in putting the City in better shape than some of its counterparts; she agreed with most of the comments made; she would be looking at cuts completely across the board in all departments; and it may be necessary to look at the level of services being provided so that, for example, instead of having excellent services, they might go down to moderate services. Councilmember Polanski said she agreed with Vice Mayor Dixon's comments about food noting that when she was on the School Board, that was one of the first things eliminated.

Vice Mayor Dixon commented that she had picked up a copy of the Palo Alto Daily News that had a community survey on Palo Alto's budget problems and suggested that if you're looking for community buy-in, that might be a way to get some public input. City Manager responded he thought those work as long as some structure is provided.

Mayor Esteves said he wanted to repeat his previous appeal to the City's different bargaining units to come forward with some creative suggestions; he recognized the great services provided but felt they should also face the challenge.

MOTION to note receipt and file.

M/S: Livengood, Dixon.

Ayes: 5

***RA7.
ARBITRAGE REBATE
CONSULTING SERVICES**

Extend the agreement with ACS to November 15, 2005, for an amount not-to-exceed \$13,000 per year, subject to approval as to form by the City Attorney.

**RA8.
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 9:04 p.m.

The City Council meeting continued.

REPORTS OF OFFICERS & BOARDS

**1.
Economic Development
Initiatives**

Mayor Esteves said he and the City Manager would be providing an introduction of why he and the City Manager were proposing this item, the City Manager would be giving information related to that issue, and then he would present their proposal. Mayor Esteves said he is often asked questions regarding what the City is doing for businesses, sometimes businesses aren't aware of issues that impact them, and the bottom line was how do we make the City very competitive in the economic and business world in the short term and in the long

term. Mayor Esteves further stated what was common in all the questions was business issues pertaining to the City's economic well being; the question was how will the City address these questions and issues so we have a comprehensive plan and resolution; and that was why he and the City Manager were presenting what they called Economic Development Initiatives. Mayor Esteves commented that Milpitas doesn't have any formalized economic development program and the current unfavorable economic conditions give more reasons for this to occur; the objective of the proposal was to develop an economic development program to support businesses in Milpitas in the pursuit of their goals but in conformity with Milpitas policies and ordinances and to also promote the economic well-being of the City and help increase Milpitas net revenue sources. Mayor Esteves said he thought this would be a great start and invited the City Manager to provide some economic information regarding the City and neighboring area.

City Manager Tom Wilson, using a PowerPoint presentation, provided an overview of the current Bay Area/Silicon Valley economic condition commenting on weaknesses, strengths, and threats to the economy. Mr. Wilson shared information on the Milpitas economic condition, Milpitas economic development assets, and current economic development initiatives such as the implementation of the Midtown Specific Plan, affordable housing programs, coordination with the County for development of the Elmwood property, and the Redevelopment Plan Amendment. Mr. Wilson described new economic development initiatives to develop and implement a Target Development/Opportunity Program that would identify development that is needed and could be used in this community, prioritize site opportunities, and pursue marketing to match up the target development. In addition, Mr. Wilson commented that an important aspect of this program would be to provide the available properties database on the City's web site.

Mayor Esteves presented his proposal to establish an Economic Development Commission to advise the Mayor and Council on business issues and work with City staff to design, develop, and implement a comprehensive economic development program. Mayor Esteves commented on possible plan components and potential commission composition of seven members, two alternates, and representing the technology sector, commercial real estate, retail sector, residential real estate, accommodations/restaurants, resident (business/finance), and the Chamber of Commerce. Mayor Esteves reiterated his recommendation to establish an Economic Development Commission to advise the Mayor and Council and to work with City staff to develop an Economic Development Plan for Milpitas.

Councilmember Gomez said he thought being pro-active like this was part of the reason Milpitas was not having the problems its neighboring cities were having and felt we need to do all we can to improve jobs and revenues; one of the things that needs to be part of this was performance measures, something that will tell if we are succeeding, and he was willing to support it but a key component was performance measures. Mayor Esteves said he agreed and expected the commission to come up with a plan and proposed budget for the Council's approval.

Councilmember Polanski said she did not disagree with the concept but wanted to know if there were any budget impacts and said she might have additional feedback after having time to review it completely. Councilmember Polanski suggested that with respect to composition, hotels should be separated from restaurants because they are two different types of businesses; she thought it was important to be pro-active in this area and was supportive but just wanted to be cautious about budget impacts.

Vice Mayor Dixon agreed with Councilmember Polanski about separating hotels from restaurants and noted she also didn't see the School District listed. Vice Mayor Dixon said it was a lot of information to receive all at one time and she would like to see it come back after the budget is dealt with. Vice Mayor Dixon shared a few quick observations commenting that she was really excited about the use of GIS to put available properties in a data base; as part of that available data base, the price per square foot would be helpful information and was something that should be emphasized because by far Milpitas is a bargain for homes in the Bay Area; commented that Milpitas hotels are in a direct route to the San Jose airport and

maybe something could be done in a partnership or through the Chamber to do more advertising; commented on the desperate need for a restaurant guide; and her only caution was once you put together a body of different diverse opinions, depending on the person representing a particular business, she would be very wary of one person using their particular industry's beliefs and desires to affect the commission as a whole, and inquired if the Council was going to direct this commission or would the seven or nine members go out looking for what they can bring to the City and be driving the train. Mayor Esteves said his assumption was that the Council would provide specific direction to the Commission and a School representative should also be included.

Councilmember Livengood said the recommendation read "to establish an Economic Development commission to advise the Mayor and Council" which sounded like what the Council charged its commissions to do – to advise – and it made him nervous if it went beyond that. Councilmember Livengood commented with respect to composition, there are two types of businesses (large and small) and expressed concern that small businesses also be represented. Councilmember Livengood said another issue was the need to give this group some type of focus as to how can the City help the business community do better in a very tough economic time; he would like to hear from the commission as to how government can help; there were a lot of things this commission could look at; and he thought it could be a very positive exercise. Councilmember Livengood commented there were things this city may have to do to help its businesses get out of the economic malaise they are in; he thought a commission was a good idea and now was a good time to begin the process with the way the economy is.

Mayor Esteves said a short-term goal was to support businesses in Milpitas in pursuit of their goals and at the same time, he wanted to make sure they are conforming to City policies and ordinances.

Vice Mayor Dixon asked if the Chamber would be representing small businesses. Councilmember Livengood responded usually but the Chamber also has large business members. Vice Mayor Dixon said she looked to the Chamber as being more connected to small business, suggested the number may have to go above seven members, and expressed concern that it not get too big or go above nine members with two alternates. Mayor Esteves agreed that it shouldn't get too big and that small businesses should be represented as well.

Ed Connor said he spoke with Councilmember Polanski this afternoon about a commission or group of people but thought this was a better program. Mr. Connor also recommended that when anybody comes in with a new program, it would go to this commission first, then to the Planning Commission, and then to the Council which would make the Council's time more productive and would be a good way to filter out some things.

Gaye Morando, Executive Manager, Milpitas Chamber, said she thought the idea was very pro-active and she looked forward to having a Chamber representative serve on the Commission; she agreed with Councilmember Livengood about small businesses; most of the businesses in Milpitas were small; and the Chamber was really the voice of the small business. Ms. Morando further stated she believed in educating the business community, Milpitas has a very diverse business community, and she looked forward to working with the Commission.

Frank DeSmidt said he seconded Gaye's comments, he thought it was a great idea, was a good start, creating jobs and jobs retention should be high on the list and would do a lot to help the revenue stream, and he thought it should be done as soon as possible.

Yollette Merriitt said an added component and excellent aspect that should be looked at was a cultural tourism component, noted that San Jose has hired a cultural tourism manager, and urged the Council to include a cultural tourism component on the Commission.

MOTION to establish an Economic Development Commission, comprised of seven members and two alternates, to advise the Mayor and Council and to work with City staff to develop an

Economic Development Plan with representation to include small businesses and the School District in addition to the recommended composition with hotels (accommodations) separated from restaurants.

M/S: Esteves, Dixon.

Vice Mayor Dixon commented that based on the recommended composition, the commission would have at least nine members with two alternates, and she thought you get complete buy-in and more work if everybody at the table has a vote. Mayor Esteves said he believed that was ideal but there may be a problem in filling all the slots and suggested waiting; if enough people volunteer, he would come back to the Council to expand the membership. Vice Mayor Dixon said if the Council was going to do it, she wanted to do it right the first time and suggested going with these nine different categories with the two alternates coming from any of the categories. Mayor Esteves said if that was the consensus, he didn't have a problem. Vice Mayor Dixon asked if staff was being given a time limit to come back. City Manager Wilson responded staff could start the recruitment and provide the Council with updates at each meeting.

Councilmember Polanski said that based on some of the comments, she thought the Commission should go to nine members; alternates should be encouraged from small business and from the Chamber; and there should be some type of application.

Councilmember Gomez asked if the representatives from each of the sectors will be required to be Milpitas residents. Mayor Esteves responded the requirement was their business must be in Milpitas, and at least a majority of the members must be Milpitas residents. City Manager Wilson added that the focus should be on the business being located in Milpitas.

VOTE ON MOTION (9 members/2 alternates): Ayes: 5

RECESS

Mayor Esteves recessed the City Council meeting at 10:00 p.m. The City Council meeting reconvened at 10:05 p.m.

3.
Child Safety Task
Force Presentation

Vice Mayor Dixon commented that over the past year there had been an increase in child predators and she had received a request that more information go out to the community. Vice Mayor Dixon further commented that in 1998, she and Police Chief Lawson and Althea Polanski from the School Board put together what was called the Megan's Law Committee; the name was subsequently changed to the Child Safety Committee, and through the efforts of this committee, residents now had the capability of going to a web site to view maps showing where sexual offenders reside in the City.

Police Chief Charles Lawson reported that the Child Safety Task Force was a joint effort of the City, the School District, and the Milpitas Police Department and introduced Lt. Charlotte Pang who would make the presentation. Lt. Pang, using a PowerPoint presentation, reviewed the history of the Child Safety Task Force, its mission statement, the current membership, the responsibilities of the participants, and the history of Megan's Law. Lt. Pang reported the Megan's Law database is available for public viewing at the Police Department lobby Monday through Friday, 9:00 a.m. to Noon, and on Saturdays and Sundays 4:00 p.m. to 6:00.

Information Services Director Bill Marion presented a demonstration of the series of maps available on the web site. Chief Lawson noted currently there are 91 registered sexual offenders in the City with all offenders accounted for.

Councilmember Livengood said he thought this work was terribly important and appreciated the time the members of the Task Force put in. Councilmember Livengood commented that people who involved themselves in this kind of activity tend to try to get themselves involved in activities or organizations that deal with children and inquired if somebody doesn't live in Milpitas but they come here to work and that puts them in some type of contact with children, how do we find out about it? Chief Lawson responded that situation was harder to track.

Councilmember Livengood suggested that was something that might be looked into through State law that once the offender is registered where they live, they must also register where they work.

Councilmember Polanski commented that teachers must be fingerprinted before they begin work and she thought the cooperation among the Police Department, the City, and the School District allowed information to get out to the community to help them without scaring them; by working together, creative ways to present the information without being threatening were developed; and she thought the work that has been done should be a model for other cities.

Councilmember Gomez expressed his appreciation for the work being done but was surprised that nothing was being done related to the Internet and sexual offenders who use the Internet to prey on young children and inquired if anything was being done about that and if there were any types of educational programs in place? Chief Lawson commented that he was not aware of any educational programs in place but that a few things had been intercepted and a few arrests made. Councilmember Gomez asked if anything was being done to help parents to tell them how they can work with their children. Lt. Pang commented that they didn't have anything in place right now to prevent these types of activities from happening, they were considered a high-tech crime, and currently when calls come in, they are referred to the high-tech crime unit, noting a sergeant is dedicated to high-tech crimes. Councilmember Gomez said he would like to be a little more proactive in that field.

Mayor Esteves inquired if there were statistics on other types of crimes to children and was it a concern. Chief Lawson said he didn't have numbers but didn't think it was a concern. Mayor Esteves asked about volunteers who have contact with children. Chief Lawson responded that City volunteers who work with children are fingerprinted. Vice Mayor Dixon commented that with respect to other crimes against children, the City/School Committee meets regularly to track what is happening within the District with respect to crimes.

Mayor Esteves thanked staff for the presentation and expressed his appreciation to the Child Safety Committee.

MOTION to note receipt and file.

M/S: Dixon, Livengood.

Ayes: 5

4.
Resolution in Support
of SCA 1

Councilmember Livengood placed this item on the agenda and stated that it was a reiteration of the policies the City has long held which was the right of the public to access information will not be infringed unless there is some overriding public or private interest, that was all the resolution said, and asked the City Attorney if this included emails. City Attorney Steve Mattas responded yes, the current Public Records Act specifically included email communications.

Councilmember Polanski said it was her understanding that as a governmental body, the Council already does everything in this resolution and questioned if this resolution or this bill amendment was going to open up the State Legislature to having to do the same things as local government bodies or was this something placed on local bodies and not something the State Legislators would have to adhere to. City Attorney Mattas said the measure as drafted in its present form (noting that the League of California Cities continues to work with the principal proponents on this) does indicate its coverage over the sunshine laws and the Public Records Act applicable to various agencies throughout the State and local agencies so it was applicable to them to the extent the current laws already apply; it elevates these provisions from the statutory framework to the Constitution which places them at the highest level of authority within the government, so it clearly would lead to subsequent court interpretations of its language as it is implemented.

Councilmember Polanski said she could be supportive of this if it held the State Legislators to the same standard the Council is held to; she believed as a local agency, the Council was

already held to this standard and until the amendment included the State Legislators, she wouldn't want to put it in the Constitution.

Mayor Esteves asked for clarification if this included the State level as well. Mr. Mattas responded that it was not very tightly worded in terms of its applicability to State Legislators; the present version of the bill will rely on subsequent court interpretations to fully identify its scope and applicability. Mayor Esteves asked if there was some documentation on the pros and cons. City Manager Wilson commented that the present draft was amended a week ago last Friday so there hasn't been much commentary developed. City Attorney Mattas said his office was in contact with the League's lobbyist today; the attempt was to allow the courts to broadly construe the public's right to access information and to narrowly construe any limitations to that.

MOTION to adopt Resolution No. 7278 in support of State Constitutional Amendment 1 (SCA 1), Access to Government Information.

M/S: Livengood, Dixon.

Ayes: 4

Noes: 1 (Polanski)

Councilmember Polanski stated the reason for her vote was that she needed more information and not that she didn't believe in open meetings. Councilmember Polanski further stated that she believed this also should be imposed upon the State Legislature because they should be held to the same high standards as the City Council is.

RESOLUTIONS

7. Bay Area Water Supply & Conservation Agency

Principal Civil Engineer Darryl Wong reported that, as a result of State legislation, it was now possible for agencies which receive water from San Francisco, including Milpitas, to form a San Francisco water supply oversight agency and a San Francisco Water Financing Authority. Mr. Wong further reported before the Council were two separate items and introduced Art Jensen, Manager of the Bay Area Water Users Association, to which the City belongs, who has been working on these bills and was present to answer any questions.

Mr. Wong reported AB2058 authorizes establishing a Bay Area Water Supply and Conservation Agency to plan and acquire supplemental regional water supplies, to encourage conservation, and to assist in planning regional water facilities; each retailer receiving San Francisco Public Utility Commission water must adopt a resolution setting a public hearing; and a proposed resolution setting a public hearing at the April 1, 2003, Council meeting was before the Council. Mr. Wong further reported the second item before the Council involved appointing a Milpitas representative to serve on the Bay Area Regional Water System Financing Authority, the appointment needed to be made before March 1st, and staff was recommending that the representative be an elected official.

Mayor Esteves said he was recommending Councilmember Livengood be appointed to this body.

MOTION to adopt Resolution No. 7279 fixing April 1, 2003, for a public hearing to form the Bay Area Water Supply and Conservation Agency and appoint Councilmember Robert Livengood to the Bay Area Regional Water System Financing Authority.

M/S: Dixon, Livengood.

Ayes: 5

ADJOURNMENT

There being no further Council business, Mayor Esteves adjourned the City Council meeting at 11:02 p.m.

The foregoing minutes were approved by the City Council as submitted on March 4, 2003.

Gail Blalock, City Clerk

Date